

***REVISED FINAL STATEMENT OF REASONS
POSTPONEMENTS, CONTINUANCES & STIPULATIONS
OF UNSUITABILITY (RN 04-04)***

UPDATE TO THE INITIAL STATEMENT OF REASONS

A clarifying nonsubstantive change to the text at CCR section 2253(c)(1) has been made as the word “victim” was inadvertently omitted as a party involved in the Board’s hearing process, and one who may be inconvenienced if a continuance to the hearing were requested. This change is deemed to be nonsubstantive because it is merely intended to conform with existing language in the Board’s regulations, and it does not “materially alter any requirement, right responsibility, condition, prescription or other regulatory element of any California Code of Regulations provision.” (See Gov. Code § 11346.8(c)).

There are no further updates to the Initial Statement of Reasons.

LOCAL MANDATES

The Board of Prison Terms (Board) has determined that the proposed action will not impose a mandate on local agencies or school districts.

CONSIDERATION OF ALTERNATIVES

The Board has determined that no reasonable alternative considered by the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed regulatory action.

EFFECT ON SMALL BUSINESSES

The Board has determined that the proposed amendments will not affect small businesses because they apply only to inmates and parolees of California penal institutions.

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESS

The Board has determined that the proposed regulations will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

FEDERAL FUNDING TO STATE

The Board has determined that the proposed amendments will have no cost or savings in federal funding to the state.

PUBLIC COMMENT PERIOD

The 45-day public comment period was held from July 16, 2004, through August 31, 2004.

Commenter Michael Brodheim submitted comments dated July 19, 2004. The Board summarizes and responds to comment No. 1, as follows:

1. The Notice of Proposed Regulatory Action states that the Statement of Reasons and proposed Text are available for review at prison law libraries. Commenter claims that the prison law library at California Medical Facility (CMF) has no Notice available for review in this action or for any other regulatory actions. Prisoner also requests that the Board forward him or CMF a copy of the statement of reasons and proposed text in this action as well as in future proposed regulatory actions.

Response: In this action and all other proposed regulatory actions, the Board sends, by mail, copies of the Notice of Proposed Regulatory Action to all persons/entities listed on the Board's interested party list which includes all penal institutions in the state of California. The Notice was mailed to all interested parties, including California prisons and the prisoner, on July 14, 2004. It is the institution's responsibility, once they receive the Notice, to ensure it is posted at the appropriate locations in the prison, including the law library.

In regard to the initial statement of reasons and regulatory text, the Board places such documents on its website at www.bpt.ca.gov and also sends copies to parties, including prisoners, upon request. Copies of the final statement of reasons and final text are also placed on the website. If the prisoner or institution desires to obtain a copy of these documents, they will be sent upon request.

Mr. Brodheim's second comment relates to issues that are outside the scope of the Notice of this regulatory action and therefore no response will be given.

There were no further comments received during the comment period.

PUBLIC HEARING

Mr. Brodheim requested that a public hearing be set in his July 19, 2004 letter. The public hearing was held on August 17, 2004, at 10:30 a.m. There were no attendees present or comments received at the hearing.